



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RTID 0648-XC541

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of Availability; Receipt of a proposed Habitat Conservation Plan (HCP); Incidental Take Permit (ITP) application; announcement of public meeting; request for comments.

SUMMARY: We, the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (FWS) have received separate ITP applications from the Oregon Department of State Lands (ODSL; applicant), associated with the Elliott State Research Forest HCP. The applications, including the HCP, have been submitted pursuant to Section 10 of the Endangered Species Act of 1973, as amended. The applicant is seeking authorization from FWS and NMFS (together, the Services) for the incidental take of three species expected to result from research and management-related activities on the Elliott State Forest in Coos and Douglas Counties, Oregon. These research and management activities include timber removal and infrastructure maintenance. FWS is the lead Federal agency under the National Environmental Policy Act (NEPA), and NMFS is a cooperating agency. The availability of the Draft Environmental Impact Statement was announced separately by FWS. NMFS is seeking public comments on the HCP.

DATES: We will accept online or hardcopy comments. Hardcopy comments must be received or postmarked on or before *[INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE **FEDERAL REGISTER**]* (See **ADDRESSES**). Comments

submitted online at <https://www.regulations.gov/> must be received by 11:59 p.m. Eastern Time on *[INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]*.

Public Meetings: FWS is hosting a public meeting during the public comment and review period. A meeting link will be posted to the FWS project web page (<https://www.fws.gov/project/elliott-state-research-forest-habitat-conservation-plan>) prior to the meeting. The public meeting will be held virtually at the following time:

- December 13, 2022, from 2 p.m. to 3:30 p.m. Pacific Time.

ADDRESSES:

Written Comments: Written comments on the proposed HCP will be accepted via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter FWS-R1-ES-2022-0029 in the Search Box. Follow instructions for submitting comments on Docket FWS-R1-ES-2022-0029. When commenting, please refer to the specific section and/or page number and the subject of your comment.

Instructions: Written comments submitted through any other method, or received after the end of the comment period, may not be considered by NMFS. All comments received are part of the public record and will generally be posted for public viewing on www.regulations.gov. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Kathleen Wells, NMFS, 503-230-5437, Kathleen.Wells@noaa.gov.

SUPPLEMENTARY INFORMATION:

ESA-Listed Species Covered in This Notice

Species covered by NMFS:

- Coho salmon (*Oncorhynchus kisutch*): Threatened.

Species covered by FWS:

- Northern spotted owl (*Strix occidentalis*): Threatened.
- Marbled murrelet (*Brachyramphus marmoratus*): Threatened.

Background

Section 9 of the ESA and Federal regulations prohibit the taking of a species listed as endangered or threatened. The ESA defines “take” to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. NMFS and FWS may issue permits, under limited circumstances, to take listed species incidental to, and not the purpose of, otherwise lawful activities. Section 10(a)(1)(B) of the ESA and implementing regulations (50 CFR 222.307 for NMFS and 50 CFR 17.22(b) and 17.32(b) for FWS) provide for authorizing incidental take of listed species.

NMFS and FWS received separate ITP applications from ODSL on October 10, 2022, pursuant to the ESA. ODSL prepared the HCP in support of both ITP applications and is seeking authorization from NMFS and FWS for incidental take of the species described above.

The ITPs, if issued, would authorize take of the covered species that may occur incidental to ODSL’s research and forest management activities (the covered activities). The plan area includes a total of 93,432 acres (378.11 km²), which includes School Lands and Board of Forestry Lands managed by ODSL and the Oregon Department of Forestry (ODF). The covered activities include the foundational research design of the Elliott State Research Forest proposal including; forest research treatments; operation standards, by research treatment designation; projected harvest timing, amount, and amount of harvest types, and methods; supporting management activities; supporting infrastructure, including roads and facilities; potential research projects; and implementation of the

HCP's conservation strategy.

The HCP specifies the impacts that will likely result from the taking of covered species and describes the steps that ODSL will take to minimize and offset such impacts. The HCP also describes the covered species' life history and ecology, as well as biological goals and objectives of the HCP, adaptive management, monitoring, and funding assurances.

NMFS is seeking public input on the HCP. We specifically request information on the following:

1. Biological information, analysis, and relevant data concerning the covered species, other wildlife, and ecosystems.
2. Potential effects that the proposed permit actions could have on the covered species, and other endangered or threatened species and their habitats, including the interaction of the effects of the project with climate change and other stressors.
3. Alternatives to the proposed action.
4. Adequacy of the conservation strategy to minimize and mitigate the impact of the taking on covered species.
5. Other information relevant to the HCP.

The Services will each make their permit decision on the statutory and regulatory criteria of the ESA. Their decisions will also be informed by the data, analyses, and public comments received on the Draft EIS and HCP. The Services will each document their determinations independently in an ESA Section 10 findings document, and an ESA section 7 biological opinion. It is NMFS' intent to adopt the EIS and issue its own record of decision to complete the NEPA process. If the Services find that all requirements for issuance of the ITPs are met, they will issue the requested permits, subject to terms and conditions deemed necessary or appropriate to carry out the purposes of ESA Section 10.

Authority: Section 10(c) of the ESA and its implementing regulations (50 CFR 222.307, 17.22, and 17.32).

Dated: November 9, 2022.

Angela Somma,

Chief, Endangered Species Division,

Office of Protected Resources, National Marine Fisheries Service.

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